

AMENDED IN SENATE AUGUST 2, 2016

AMENDED IN SENATE JUNE 15, 2016

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2450

Introduced by Assembly Member Achadjian

February 19, 2016

An act to amend ~~Sections 402.1 and 5091 of~~ *Section 5091 of*, and to add *Section 402.2 to*, the Revenue and Taxation Code, relating to property tax.

LEGISLATIVE COUNSEL'S DIGEST

AB 2450, as amended, Achadjian. Property taxation.

Existing property tax law requires the county assessor to consider, when valuing real property for property taxation purposes, the effect of any enforceable restrictions to which the use of the land may be subjected. Under existing law these restrictions include, but are not limited to, zoning, recorded contracts with governmental agencies, and various other restrictions imposed by governments.

This bill would require contracts with governmental agencies that restrict the use of the property to owner-occupied housing available at affordable housing cost to be recorded. *The bill would provide that this requirement would not prevent the assessor from considering a contract that restricts the use of the property to owner-occupied housing available at affordable housing cost, including under any locally*

adopted inclusionary housing program, for purposes of assessing real property, as provided.

The California Constitution exempts from property taxation property that is owned by the state or, with certain exceptions, by local governments. Existing property tax law establishes a procedure by which a public entity may cancel property taxes on property that it acquires. Under existing law, if a public entity proposes to acquire property for public use that will make the property exempt from taxation, the public entity is required to give notice to the county tax collector and to other public entities whose taxes are not collected by the county tax collector, as provided.

This bill would additionally require the public entity to give notice to the county assessor.

By adding to the duties of local government officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 402.1 of the Revenue and Taxation Code~~
- 2 ~~is amended to read:~~
- 3 ~~402.1. (a) In the assessment of land, the assessor shall consider~~
- 4 ~~the effect upon value of any enforceable restrictions to which the~~
- 5 ~~use of the land may be subjected. These restrictions shall include,~~
- 6 ~~but are not limited to, all of the following:~~
- 7 ~~(1) Zoning.~~
- 8 ~~(2) Recorded contracts with governmental agencies other than~~
- 9 ~~those provided in Sections 422, 422.5, and 422.7.~~
- 10 ~~(3) Permit authority of, and permits issued by, governmental~~
- 11 ~~agencies exercising land use powers concurrently with local~~
- 12 ~~governments, including the California Coastal Commission and~~
- 13 ~~regional coastal commissions, the San Francisco Bay Conservation~~

1 and Development Commission, and the Tahoe Regional Planning
2 Agency.

3 (4) ~~Development controls of a local government in accordance~~
4 ~~with any local coastal program certified pursuant to Division 20~~
5 ~~(commencing with Section 30000) of the Public Resources Code.~~

6 (5) ~~Development controls of a local government in accordance~~
7 ~~with a local protection program, or any component thereof, certified~~
8 ~~pursuant to Division 19 (commencing with Section 29000) of the~~
9 ~~Public Resources Code.~~

10 (6) ~~Environmental constraints applied to the use of land pursuant~~
11 ~~to provisions of statutes.~~

12 (7) ~~Hazardous waste land use restriction pursuant to Section~~
13 ~~25226 of the Health and Safety Code.~~

14 (8) (A) ~~A recorded conservation, trail, or scenic easement, as~~
15 ~~described in Section 815.1 of the Civil Code, that is granted in~~
16 ~~favor of a public agency, or in favor of a nonprofit corporation~~
17 ~~organized pursuant to Section 501(c)(3) of the Internal Revenue~~
18 ~~Code that has as its primary purpose the preservation, protection,~~
19 ~~or enhancement of land in its natural, scenic, historical, agricultural,~~
20 ~~forested, or open-space condition or use.~~

21 (B) ~~A recorded greenway easement, as described in Section~~
22 ~~816.52 of the Civil Code, that is granted in favor of a public~~
23 ~~agency, or in favor of a nonprofit corporation organized pursuant~~
24 ~~to Section 501(c)(3) of the Internal Revenue Code that has as its~~
25 ~~primary purpose the developing and preserving of greenways.~~

26 (9) ~~A solar-use easement pursuant to Chapter 6.9 (commencing~~
27 ~~with Section 51190) of Part 1 of Division 1 of Title 5 of the~~
28 ~~Government Code.~~

29 (10) ~~A contract where the following apply:~~

30 (A) ~~The contract is with a nonprofit corporation organized~~
31 ~~pursuant to Section 501(c)(3) of the Internal Revenue Code that~~
32 ~~has received a welfare exemption under Section 214.15 for~~
33 ~~properties intended to be sold to low-income families who~~
34 ~~participate in a special no-interest loan program.~~

35 (B) ~~The contract restricts the use of the land for at least 30 years~~
36 ~~to owner-occupied housing available at affordable housing cost in~~
37 ~~accordance with Section 50052.5 of the Health and Safety Code.~~

38 (C) ~~The contract includes a deed of trust on the property in favor~~
39 ~~of the nonprofit corporation to ensure compliance with the terms~~
40 ~~of the program, which has no value unless the owner fails to~~

1 comply with the covenants and restrictions of the terms of the
2 home sale.

3 (D) The local housing authority or an equivalent agency, or, if
4 none exists, the city attorney or county counsel, has made a finding
5 that the long-term deed restrictions in the contract serve a public
6 purpose.

7 (E) The contract is recorded and provided to the assessor.

8 (b) There is a rebuttable presumption that restrictions will not
9 be removed or substantially modified in the predictable future and
10 that they will substantially equate the value of the land to the value
11 attributable to the legally permissible use or uses.

12 (c) Grounds for rebutting the presumption may include, but are
13 not necessarily limited to, the past history of like use restrictions
14 in the jurisdiction in question and the similarity of sales prices for
15 restricted and unrestricted land. The possible expiration of a
16 restriction at a time certain shall not be conclusive evidence of the
17 future removal or modification of the restriction unless there is no
18 opportunity or likelihood of the continuation or renewal of the
19 restriction, or unless a necessary party to the restriction has
20 indicated an intent to permit its expiration at that time.

21 (d) In assessing land with respect to which the presumption is
22 un rebutted, the assessor shall not consider sales of otherwise
23 comparable land not similarly restricted as to use as indicative of
24 value of land under restriction, unless the restrictions have a
25 demonstrably minimal effect upon value.

26 (e) In assessing land under an enforceable use restriction wherein
27 the presumption of no predictable removal or substantial
28 modification of the restriction has been rebutted, but where the
29 restriction nevertheless retains some future life and has some effect
30 on present value, the assessor may consider, in addition to all other
31 legally permissible information, representative sales of comparable
32 lands that are not under restriction but upon which natural
33 limitations have substantially the same effect as restrictions.

34 (f) Contracts with governmental agencies that restrict the use
35 of the property to owner-occupied housing available at affordable
36 housing cost, including under any locally adopted inclusionary
37 housing program, shall be recorded.

38 (g) For the purposes of this section the following definitions
39 apply:

1 ~~(1) “Comparable lands” are lands that are similar to the land~~
2 ~~being valued in respect to legally permissible uses and physical~~
3 ~~attributes.~~

4 ~~(2) “Representative sales information” is information from sales~~
5 ~~of a sufficient number of comparable lands to give an accurate~~
6 ~~indication of the full cash value of the land being valued.~~

7 ~~(h) It is hereby declared that the purpose and intent of the~~
8 ~~Legislature in enacting this section is to provide for a method of~~
9 ~~determining whether a sufficient amount of representative sales~~
10 ~~information is available for land under use restriction to ensure~~
11 ~~the accurate assessment of that land. It is also hereby declared that~~
12 ~~the further purpose and intent of the Legislature in enacting this~~
13 ~~section and Section 1630 is to avoid an assessment policy which,~~
14 ~~in the absence of special circumstances, considers uses for land~~
15 ~~that legally are not available to the owner and not contemplated~~
16 ~~by government, and that these sections are necessary to implement~~
17 ~~the public policy of encouraging and maintaining effective land~~
18 ~~use planning. This statute shall not be construed as requiring the~~
19 ~~assessment of any land at a value less than as required by Section~~
20 ~~401 or as prohibiting the use of representative comparable sales~~
21 ~~information on land under similar restrictions when this information~~
22 ~~is available.~~

23 ~~SECTION 1. Section 402.2 is added to the Revenue and~~
24 ~~Taxation Code, to read:~~

25 ~~402.2. Contracts with government agencies restricting the use~~
26 ~~of property for owner-occupied housing available at affordable~~
27 ~~cost shall be recorded. Nothing in this section shall be construed~~
28 ~~to prevent the assessor from considering a contract that restricts~~
29 ~~the use of the property to owner-occupied housing available at~~
30 ~~affordable housing cost, including under any locally adopted~~
31 ~~inclusionary housing program, for purposes of applying Section~~
32 ~~402.1 or subdivision (a) of Section 110.~~

33 ~~SEC. 2. Section 5091 of the Revenue and Taxation Code is~~
34 ~~amended to read:~~

35 ~~5091. (a) If a public entity proposes to acquire property for a~~
36 ~~public use that will make the property exempt from taxation, the~~
37 ~~public entity shall give notice to the county assessor, the county~~
38 ~~tax collector, and to any public entities whose taxes are not~~
39 ~~collected by the county tax collector but who at the time exercise~~
40 ~~the right of assessment and taxation.~~

1 (b) The notice shall be given within a reasonable time following
2 the initial budgeting of funds for the proposed acquisition, and
3 shall state all of the following:

4 (1) The approximate extent of the proposed project.

5 (2) The estimated time of completion of all acquisitions
6 necessary for the proposed project.

7 (c) This section creates no rights or liabilities and does not affect
8 the validity of any property acquisitions by negotiated purchase
9 or eminent domain.

10 SEC. 3. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.